

REMARKS

Paragraph 1-9

In response to the Restriction Requirement mailed on October 8, 2003, Applicant hereby confirms the election of group IV, without traverse. The claims that were withdrawn in response to the telephonic restriction requirement are now cancelled. Applicant notes that the Office Action indicates that the sub-species selected was S4c. Rather, it was S4a that was selected, and so the remaining claims are 58-64.

Paragraph 10

New drawings will be prepared and submitted.

Paragraphs 11 and 12

The claims have been amended to conform the preamble to the body of the claim, that is, that the claims are method claims.

Paragraphs 13-15

Applicant traverses the rejection of the claims under 35 U.S.C. § 102 and 103. As will be seen, the claims as previously pending are fully distinct and clearly patentable.

The sole cited reference is Moody. Moody discloses a game which is played in association with “a conventional lottery game” (Moody at col. 3, line 6). Prior to the conventional lottery drawing, a “determination” is made as to what will be considered a “high” total for the lottery draw, and what will be a “low” total for a lottery draw. The numbers between the “high” and the “low” are considered “middle” totals. The player bets on the outcome, such as whether the total of the drawn

numbers is “high”, “low” or either “high” or “low”. The underlying lottery draw then proceeds, at the end of which the numbers are tallied, and compared to the predefined numbers for “high” or “low”. Winning bets are then paid.

Applicant’s invention as claimed in claim 58 covers at least the game shown in Fig. 7. The specification describes the figure in pertinent part as follows:

Fig. 7 shows a depiction of a lottery game termed “JACK-O”. As shown in Fig. 7, a target number is randomly selected from a first range of numbers. The range of numbers includes a minimum number and a maximum number. For example, a typical range for the target numbers would be from 20 to 50. The player or the “house” (the system implementing the game) may select the target number. A graphical indication of the target number is presented to the player.

Next, a number is randomly selected for the player, where the number is selected from a second range, the range having a minimum and a maximum number. The maximum of the second range is equal to or less than $\frac{1}{2}$ of the minimum of the first range. By way of example, if the second range is from 1 to 10, the first range is at least 20. Game play continues by receiving an indication from the player as to whether to draw again. If the player elects to do so, a next randomly selected number from the second range is presented to the user. The cumulative amount of the draws is titled. This step is repeated either until the player declines to draw further or the title exceeds the target number. In the event that the player declines to draw, the system randomly selects numbers from the second range, accumulating those numbers and comparing the total to the player’s accumulated total

amount. The winner is the one who has the highest total closest to or equal to, but not exceeding, the target number.

The claims include numerous distinctions over Moody. The claims call for “randomly selecting a target number from a first range of numbers..”. Moody does not randomly select the numbers that comprise the “high” number or the “low” number. Moody fairly read teaches a game where those numbers are selected by the entity defining the game parameters. The claims further require the system to select a number for the player. Moody, to the contrary, receives the player’s selection as to “high”, “low” or “either high or low”, as the case may be. Nothing is provided to the player. The games are diametrically opposite. Yet a further distinction is the claim limitation to “receiving an indication from the player whether to draw again...”. Moody does not in any way receive an indication from the player as to whether another number is to be selected. Moody necessarily requires drawing the complete series of numbers for the underlying lottery game. Once again, the claim limitations are precisely opposite of Moody’s teachings. Yet the further limitation of the system then “randomly selecting numbers” after the player declines to draw is nowhere found in Moody. The player in Moody never ‘declines to draw’. Finally, Moody does not assign winners by the claimed requirement of “whomever has a total closest to, but not exceeding, the target.” “Closest” has nothing to do with Moody, where the player either wins or loses by correctly identifying a “high” or “low” (or combination) sum total for the independent, underlying lottery game.

Virtually every claim limitation is distinct from Moody. Moody clearly does not anticipate or render obvious the claims. Moody so teaches away on virtually every element that there is no fair reading of it that suggests anything about applicant’s claimed method of game play.

Patent
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(prev 267/172)

Additionally, Applicant submits a Second Supplemental Information Disclosure Statement
herewith.

Applicant earnestly requests allowance of these claims, and requests that the undersigned be contacted by phone if any matter remains.

Respectfully submitted,

O'MELVENY & MYERS LLP

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By: David B. Murphy
David B. Murphy
Reg. No. 31,125
Attorneys for Applicant

DBM/dnd

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PATENT TRADEMARK OFFICE

O'Melveny & Myers LLP
114 Pacifica, Suite 100
Irvine, CA 92618-3315
(949) 737-2900